

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

1300 Franklin Street
P.O. Box 9810
Vancouver WA 98668-9810
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NOTICE TO PARTIES OF RECORD

Project Name: ENGLISH CONDITIONAL USE PERMIT

**Case Number: CUP2009-00005; PSR2009-00021; SEP2009-00041;
VAR2009-00008; CRA2009-00002**

The attached decision of the Land Use Hearing Examiner will become final and conclusive unless a written appeal is filed with the Board of Clark County Commissioners, 6th floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **August 25, 2009** (14 calendar days after written notice of the decision is mailed).

The Hearing Examiner's procedural SEPA decision is final and not appealable to the Board of County Commissioners.

All other appeals must be written and contain the information required under CCC 40.510.030(H), and placed in the following preferred format:

1. Project Name
2. Case Number
3. Name and signature of each petitioner: The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.030(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official.
4. Introduction:
Provide a brief history of the case. This should include a chronology of dates of related applications, cases numbers, and a description of the proposal as it relates to the decision being appealed
5. Standard of Review:
Describe what standard of review (i.e., board's discretion to reverse the examiner's decision) you believe applies to board's review of the alleged errors (e.g., substantial evidence for challenges to findings of fact; de novo review for code interpretation; or, clearly erroneous for issues involving application of code requirements to particular facts).
6. Alleged Errors/Response to Alleged Errors:
Identify the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error (i.e., reference the relevant exhibits and passages, court cases, etc.).

The appeal fee is **\$716**

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Mailed on: **August 11, 2009**

ENGLISH CONDITIONAL USE PERMIT
CUP2009-00005; PSR2009-00021; SEP2009-
00041; VAR2009-00008; CRA2009-00002
HEARING DATE: 7/23/09

PLANNER: ALAN BOGUSLAWSKI
OA II: ROSIE HSIAO

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ENGLISH CONDITIONAL USE PERMIT
UP2009-00005; PSR2009-00021; SEP2009-
00041; VAR2009-00008; CRA2009-00002
HEARING DATE: 7/23/09

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**BEFORE THE LAND USE HEARINGS EXAMINER
FOR CLARK COUNTY, WASHINGTON**

In the matter of a Type III application for conditional use and site plan approval to operate and expand an auto mechanic business and add a dwelling unit on a 0.4-acre parcel zoned Rural Commercial (CR-1) in unincorporated Clark County, Washington.

FINAL ORDER

**English CUP
CUP2009-00005, PRS2009-00021,
SEP2009-00041 & CRA2009-00002**

I. Summary:

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for conditional use permit and site plan approval to operate and expand an existing auto mechanic business and establish a dwelling on an approximately 0.4-acre parcel zoned CR-1.

II. Introduction to the Property and Application:

Applicant..... Lucas English
26710 NE 19th Street
Camas, WA 98607

Owner..... Gene English
26710 NE 19th Street
Camas, WA 98607

Contact..... Minister Glaeser Surveying, Inc.
Attn: David Rosenberger
2200 East Evergreen Blvd.
Vancouver, WA 98661

Property Legal Description: Tax Lot 11 (Parcel no. 173624-000) located in the SE quarter of Section 23, Township 2 North, Range 3 East of the Willamette Meridian. Street Address: 26710 NE 19th Street, Camas.

Applicable Laws Clark County Code (CCC) Title 15.12 (Fire), 40.230.010 (Commercial Districts), 40.320 (Landscaping/Screening), 40.340 (Parking), 40.350 (Transportation), 40.360 (Solid Waste/Recycling), 40.370 (Sewer/Water), 40.380 (Stormwater/Erosion Control), 40.410 (CARA), 40.500 (Procedures), 40.510.030 (Type III Process), 40.520.030 (Conditional Use Permits), 40.520.040 (Site Plan Review), 40.550.020 Variances, 40.570 (SEPA), 40.610 (Impact Fees), & Title 24 (Public Health) and the Clark County Comprehensive Plan.

The 0.4-acre site is zoned CR-1, which allows auto mechanic businesses, subject to certain restrictions, as a conditional use, and requires site plan approval. This use was first established many years ago and, through continued use, apparently acquired a non-conforming use right. The mechanic shop use, however, was apparently suspended and converted to a wood shop, a lapse that exceeded 6 months and terminated the non-conforming use right. The owner's son apparently resumed the auto mechanic shop operation without benefit of permits, and the County initiated a code enforcement action (CDE2007-01491). This application is the property owner's solution to the enforcement action that will legalize the auto mechanic operation, so long as the nature of the use is tailored to the limitations imposed by the underlying rural zoning, e.g., the use must serve the auto repair needs of rural residents.

At 0.4 acres, the site is fairly small and located in the northeast corner of the intersection of NE 19th Street and NE 267th Avenue. This and the parcel immediately to the south across NE 19th Street are the only properties in the area with CR-1 zoning. Otherwise, the site is surrounded by R-5 zoned properties, large lots developed with homes. The property is rural land outside any Urban Growth Area but within the territory of the Washougal River Neighborhood Association, the Rural 1 Transportation Impact Fee subarea and the Camas School District. The site is not served by public sewer or water. The existing building is served by an on-site septic system and a drinking water well, both of which will be abandoned as part of this development and replaced with a new septic system and well.

The application includes the original narrative, information and plans (Exs. 5 & 6), a revised preliminary site plan and related plans (Ex. 12), notes from a January 8, 2009 preapplication conference (Ex. 6, tab 3), a CARA Level I Site Evaluation Report (Ex. 6, tab 9), an archaeology predetermination (Ex. 6, tab 12), a traffic profile and sight distance certification (Ex. 6, tabs 13 & 14), a variance application seeking a reduction in the landscape buffer required along the south boundary (Ex. 6, tab 6), a letter from the applicant's attorney explaining why the lesser landscape buffer requirements apply along the southern boundary (Ex. 11), a preliminary landscape plan (Ex. 6, tab 19), a revised landscape plan (Ex. 12) and a SEPA checklist (Ex. 6, tab 8).

III. Summary of the Local Proceeding and the Record:

A preapplication conference for this proposal was requested on December 19, 2008 and held January 8, 2009 (Ex. 6, tab 3). An application was submitted on May 20, 2009 (Exs. 5 & 6) and was deemed fully complete on May 21, 2009 (Ex. 7). From this sequence, this development is deemed vested as of December 19, 2008. Notice of the Type III application and a July 23, 2009 public hearing on the application was mailed to property owners within 500 feet and the Washougal River Neighborhood Association on June 4, 2009 (Ex. 15). Notice of the proposal and July 23rd hearing were published in The Columbian (Ex. 14) and posted on and near the site on July 8, 2009 (Exs. 15 & 16). The County received no appeals or comments on the SEPA Determination by the submission deadline of June 18, 2009. Apparently one negative comment was submitted on the development proposal, but anonymously and was therefore disregarded and not made part of the record. One neighbor (Jack Shynne) submitted a written comment (Ex. 18) requesting enhanced landscaping between the development site and his property. Staff issued a comprehensive report on the project on July 8, 2009 (Ex. 16) recommending approval with conditions.

At the commencement of the July 23rd hearing, the Hearings Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflict of interest. No one objected to the proceeding, notice or procedure. No one raised any procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction.

At the hearing, Alan Boguslawski, County planning staff on the project, Doug Boheman, engineering staff, provided verbal summaries of the project, the staff report and the various agency and departmental comments already in the record. David Rosenberger, design engineer with Minister Glaeser Surveying, Inc., represented the applicant, described the project, explained details and responded to questions. No one else requested an opportunity to testify and no one requested a continuance or that the record be left open. The Examiner closed the record at the conclusion of the July 23rd hearing and took the matter under consideration.

IV. Findings:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The Examiner adopts the following findings related to issues and criteria that were addressed in the staff report:

LAND USE:

Finding 1 – Allowed Uses: Vehicle repair shops located entirely within an enclosed building are allowed in the CR-1 zone are allowed, subject to approval of a Conditional Use Permit (CUP) and a site plan. The narrative (Ex. 6, tab 5) states that the proposal is a continuation of an auto repair shop owned by the applicant and that the auto shop is a historical use of the property. From this and staff's explanation of the history of use on the property, the Examiner concludes that the previous auto repair shop had a non conforming use status. Records of the original septic permit for the site appear to establish the beginning point for that use. The narrative then states that the automobile repair shop use was then converted to a wood shop by the current owner for some period of time that appears to have exceeded 6 months. According to CCC 40.530.050(A)(1) nonconforming uses that are suspended or lapse for 6 months or more are considered abandoned and any nonconforming use status is thereby lost. Thus, the automobile repair use cannot be resumed now without compliance with the current code, which requires a permit and site plan approval. In that light, the current proposal does not seek confirmation of, nor is it presumed upon, a nonconforming use status for the property. Instead, the applicant seeks a permit to allow the automobile repair shop to operate and expand slightly beyond its current level and to establish a dwelling unit in the existing building. Table 40.230.010-1(5)(g)(2) prohibits outdoor storage or repair of vehicles, and a condition to this effect is warranted. See Condition H-1. The proposed residence is permitted in the CR-1 zone in conjunction with an out-right allowed or conditional use. CCC Table 40.230.010-1(1)(i). Therefore, the residence is allowed only if the auto repair shop is approved.

Finding 2 - Rural Commercial Use Criteria: Table 40.230.010-1 imposes additional requirements and limitations on permitted auto repair uses in the CR-1 zone, including the following:

- a. The proposed use will support the natural resource activities and/or the needs of the rural community;
- b. The proposed use is limited in size to serve primarily the surrounding rural community and does not require or create the need for urban levels of service for water, sewer and transportation; and
- c. The proposed use is primarily for convenience and service needs necessary to support natural resource activities and/or the rural community and will not cause adverse impacts on surrounding natural resource activities.

In response to criterion a, the applicant argues that the proposed business will serve the rural community by servicing the vehicles owned by rural residents in the vicinity. The nearest auto repair shop is approximately 4 miles away in Camas. The applicant's narrative also states that the existing business has in the past focused on high performance cars and operated as "English Racing." However, the applicant now proposes to serve the vehicle service needs of the local rural community, and a condition of approval to this effect is warranted. See Condition H-2. So long as that is the case, this criterion is met.

In response to criterion b, the applicant states that the shop will be limited to three repair bays. The Examiner finds that the limited size of the site and the proposed use will limit the scope of the development. The development will rely on on-site wells and septic systems, and will not create a need for urban level services.

In response to criterion c, the applicant argues that the surrounding rural community has a need for vehicle repair and should not have to travel to urban areas for these services. The site is located adjacent to other commercial businesses serving the rural area, making the applicant's services convenient. The Examiner finds this criterion requires the business activities to serve the local rural community as a primary mission. See Condition H-2. So long as that is the case, this criterion is met. So long as these conditions are consistently complied with, the Examiner finds that the proposal is unlikely to result in adverse impacts on surrounding natural resource activities, due to the location and the limited size of the business and its activities. On this basis, the Examiner concludes that, subject to the conditions of approval, the criteria in CCC Table 40.230.010-1, Footnote 1 will be met.

Finding 3 - Development Standards: CCC 40.230.010(D) provides standards for developments in the CR-1 zone. Minimum setback standards in the commercial zones are based on the applicable landscape buffers required in CCC Table 40.320.010-1. See Finding 4, below. According to CCC 40.230.010(D)(4), not less than 15% of the total lot area shall be landscaped. The site plan indicates that approximately 29% of the site area will be in landscaping.

Finding 4 – Landscaping: CCC Table 40.320.010-1 requires the following landscape buffers around the perimeter of the site:

- | | |
|---------------------------------------|---|
| North (abutting CR-1) | 5-foot buffer with L1 landscaping |
| East (abutting R-5) | 10-foot buffer with L4 landscaping/screening or 15-foot buffer with L5 landscaping/ screening |
| West & south (abutting streets) | 10-foot buffer with L2 landscaping |

The applicant's revised landscape plan (Ex. 12) provides the required buffers and plantings, except along the south property boundary, where the plan proposes a 5-foot (rather than 10-foot) buffer with L2 screening and plantings. This is the interpretation advanced by the applicant's attorney (Ex. 11), i.e., that CCC 40.320.010 should be interpreted so that subsection E prevails over the larger buffer prescribed in Table 40.320.010-1. Subsection E prescribes that a minimum 5 foot strip be landscaped to at least an L2 standard or a minimum 10 foot wide strip be landscaped to at least an L1 standard where vehicle parking or loading abuts a public road right-of-way. Based on legal advice from the Clark County Prosecuting Attorney's office staff revised its recommended interpretation of CCC 40.320.010 to comport with the applicant's. This obviated the need for a variance (Ex. 6, tab 6), which the applicant has now withdrawn. The revised landscape plan (Ex. 12) meets the standard advanced by the applicant's attorney and now accepted by planning staff. The required landscaping shall be installed prior to issuance of a certificate of occupancy. See Condition F-1.

Finding 5 – Parking: CCC 40.340.010 provides the parking standards applicable to this proposal. Table 40.340.010-3 requires a minimum of 1 space per 750 sf of floor area for service and repair shops. According to the revised narrative (Ex. 12), the total gross floor area of the building is 6,806 sf. The residential garage and living space occupies 3,059 sf, leaving 3,747 sf as the shop area. A portion of the enclosed shop area (846 sf) is proposed for parking vehicles that are in for service, because the auto repair use is required to be entirely enclosed. Thus, in accordance with CCC 40.340.010(B)(1), the interior parking area may be excluded from the calculation of parking requirements. Therefore, based on 2,901 sf of shop area, a minimum of four parking spaces are required, including one accessible space designed to ADA standards. The site plan provides five parking spaces. Two parking spaces are required for the proposed residence, both of which are provided in two proposed garages. The proposed accessible parking space needs to provide an access aisle and an accessible route of travel to the building entrance. See Condition A-1a. The building elevation and floor plans depict an overhead garage door and vehicle entrance located on the south wall of the west addition. The proposed location of the accessible parking space will conflict with vehicular access to that entrance. See Condition A-1b.

Finding 6 - Solid Waste: Storage areas for solid waste and recyclables are required in accordance with CCC chapter 40.360. The preliminary site plan does not identify a solid waste enclosure. Therefore, the site plan must be amended to show where solid waste and recyclables will be stored. See Condition A-1c.

TRANSPORTATION:

Finding 7 - Frontage Roads: NE 19th Street, fronting the site on the south, is classified as a Rural Major Collector, currently with a 30-foot half-width right-of-way along the site's frontage. NE 19th Street has approximately 25 feet of paved width. No frontage improvements along NE 19th Street are proposed or required. SR 500 is adjacent to the west of the site. There is a 50-foot existing half-width right-of-way on the applicant's side and a total paved width of approximately 25 feet.

Finding 8 - Access Management: NE 267th Avenue (SR 500) fronts the site on the west. No access to SR 500 currently exists, and none is proposed. NE 19th Street fronts the site on the south. Two accesses exist, of which the western-most access

will be closed as part of this proposal. The eastern-most driveway will be used for access and will be improved to county standards. This location will be farther to the east of the intersection with SR 500, which will be a safer location as it will be directly across from an existing access point to the Fern Prairie Market on the south side of NE 19th Street. The intersection of the proposed access shall be paved from the edge of the public road to the right-of-way or to 20 feet from the edge, whichever is greater. See Condition A-3a.

Finding 9 - Sight Distance: There is no posted speed limit on NE 19th Street, so a 50 mph speed is assumed pursuant to CCC 40.350.030(B)(8)(a). This code section requires a minimum sight distance measured from eye height (3½ feet above the controlled road surface) at least 15 feet from the edge of the vehicle travel lane of the uncontrolled public road to an object height of 4.25 feet on the uncontrolled public road. According to CCC Table 40.350.030-11, for a speed limit of 50 mph, a minimum of 500 feet of sight distance is required. Currently there is a chain link fence located within the right-of-way that blocks the view at 15 feet back from the edge of the travel lane that obstructs sight distance. The applicant proposes to remove the fence from the existing right-of-way as part of this development, which will allow 500 feet of sight distance to the east and clear sight distance westward to the intersection of NE 19th Street and NE 267th Avenue. With the removal of the fence, this proposal will meet the sight distance requirements in CCC 40.350.030(B)(8)(b) and Table 40.350.030-11. See Condition A-3b.

STORMWATER:

Finding 10 – Applicability: The Stormwater and Erosion Control Ordinance (CCC chapter 40.380) applies to development activities that result in the addition or replacement of more than 1,000 sf of impervious surface for any of the development, or redevelopment activities listed in CCC 40.380.040(B)(7)(a) and (B)(7)(b), building areas excluded. In accordance with CCC 40.380.040(B)(7)(a)(8), development activities or redevelopment involving vehicle maintenance and repair facilities require API or CPS-type oil/water separators, and CCC 40.380.040 (B)(7)(b)(3) further clarifies other activities where the risk of oil spills or illegal dumping of oil or grease is significant. This project involves a vehicle maintenance and repair facility that, without the required CARA mitigations (see Finding 13 below), could result in oil spills and/or dumping of oil or grease. Therefore, this development is subject to and shall comply with the Stormwater and Erosion Control Ordinance, CCC chapter 40.380. The erosion control ordinance is intended to minimize the potential for erosion. A plan is required for all projects meeting the applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance.

Finding 11 - Stormwater Proposal: The applicant proposes to achieve the required stormwater quantity control for the proposed roof and parking lot through underground detention prior to release into an existing roadside open channel conveyance system storm-line located near the southwest corner of the site. As proposed, the stormwater mitigation facility shall release the post developed 2-year, 10-year, and 100-year 24-hour storm events to their following respective pre-developed flow rates: half of the 2-year, 10-year, and 100-year occurring 24-hour storm events. Stormwater quality control for the parking lot is proposed to be accomplished with the use of a below ground filter vault. The stormwater quality mitigation facilities shall be designed to treat 70% of the 2-year occurring 24-hour

storm event. The stormwater mitigation facilities as proposed will be a privately owned and privately maintained.

Finding 12 - Site Conditions and Stormwater Issues: The property is 0.40 acres in area with slopes of 0-5% over 91% of the parcel, and slopes of 5-10% over 9% of the parcel. The site has an existing 1,937 sf shop building that will remain and undergo improvement. The existing parking lot will have additional pavement added and the existing pavement improved. There is one water well located on-site inside of the building. The site will be improved to expand space for repair, new parking lot and facilities, landscaping, and a residential dwelling unit within the expanded shop. It is anticipated that approximately 1,123 sf of net new impervious surface will be created with the improvement of this property. The applicant submitted a preliminary stormwater Technical Information Report (Ex. 17) with the proposed site-plan. The National Resources conservation service mapping shows the site to be underlain by Hillsboro soils (HcB), classified by AASHTO as A-4. These soils are designated as hydrologic group B CCC chapter 40.380 does not list A-4 soils as suitable for infiltration. Therefore, disposal of stormwater runoff by infiltration is not proposed, and the applicant proposes detention to achieve quantity control. Runoff quantity control requirements will be met by using an underground detention facility consisting of Stormtech SC-310 detention chambers. The storm runoff proposes to discharge the detained stormwater runoff into the existing roadside open channel stormwater conveyance channel. The point of discharge to this conveyance channel is located near the southwest corner of the site. In accordance with CCC 40.380.040(B)(2), all development activities required to prepare a final stormwater control plan shall conduct an analysis of off-site water quality impacts resulting from the development activities and shall mitigate their impacts. Therefore this project shall perform an offsite analysis extending a minimum of ¼ mile downstream from the development. See Condition A-4a. The applicant shall obtain all necessary construction permits from other municipalities prior to performing any work in their jurisdictions. See Condition A-4b.

CRITICAL AQUIFER RECHARGE AREAS

Finding 13 – CARA: The applicant is proposing an automobile repair business within a Critical Aquifer Recharge Area (CARA 1). According to CCC 40.410.020(A)(12) vehicle repair, recycling, and recyclable materials – automotive activities within a CARA I require a CARA permit. The applicant applied for a CARA permit and provided a CARA Level I Site Evaluation Report prepared by Environmental Technology Consultants stamped and signed by Tim O’Gara, LG, LHg, a Washington licensed geologist (Ex. 6, tab 9). A condition is warranted requiring the applicant to employ the recommendations in this report as a means to prevent ground water contamination. See Condition H-3.

FIRE PROTECTION:

Finding 14 - Fire Marshal Review: This application was reviewed by the Fire Marshal's Office, which provided comments and recommended certain conditions of approval. The developer shall implement those conditions. Where there are difficulties in meeting these conditions or if additional information is required, the developer should contact the Fire Marshal's office immediately.

Finding 15 - Building Construction: Building construction occurring pursuant to this proposal shall comply with the county's building and fire codes. Additional specific

requirements may be imposed at the time of building construction through the permit review and approval process.

Finding 16 - Fire Flow: Fire flow in the amount of 1,750 gallons per minute supplied for 2 hours duration is required for this application. Fire flow is based upon a 3,444 sf type V-B constructed building. Prior to obtaining building permits, the developer shall submit proof from the water purveyor indicating that the required fire flow is available at the site. However, this rural site is not served by public water. Therefore, in lieu of fire flow and hydrant, the applicant may install a monitored fire sprinkler system with a tank and pump system so long as this alternative is reviewed and approved by the Fire Marshal. See Condition A-6a. Otherwise, water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to the commencement of combustible building construction. See Condition B-5.

Finding 17 - Fire Hydrants: If the applicant pursues the fire flow and hydrant option, either the indicated number or the spacing of the fire hydrants is inadequate. If fire hydrants are employed, the developer shall space them no further apart than 300 feet, and no portion of the building exterior shall be farther than 300 feet from a fire hydrant as measured along approved fire apparatus access roads. See Condition A-6b. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local district fire chief shall review and approve the exact locations of fire hydrants. In lieu of fire flow and hydrant, a monitored fire sprinkler system with a tank and pump system would be an acceptable alternative, but must be reviewed and approved by the Fire Marshal. See Condition A-6c.

Finding 18 - Fire Apparatus Access: Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application adequately provide required fire apparatus access. The developer shall maintain access roads with an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. Fire apparatus turnarounds are not required for this application.

WATER & SEWER SERVICE:

Finding 19 - Utilities: This rural site is not served by public water or sewer. The site has an existing well and septic system. The applicant proposes to drill a new well to provide water and to decommission the existing well. The applicant also proposes to decommission the existing septic system and construct a new on-site system for sewage disposal (Ex. 13). The Examiner finds this is acceptable.

Finding 20 - Health Department: The Clark County Health Department conducted a Development Review Evaluation dated January 14, 2008, submitted by the applicant (Ex 6, tab 11). The Health Department submitted a revised Development Review Evaluation (Ex. 13) based on the applicant's revised septic system proposal. The Health Department provides the following recommendations:

- The proposal is for up to four employees in the business and a two bedroom residence.
- An effective curtain ditch on the north side of the on-site sewage system area is critical for proper functioning of the system.
- No portion of the on-site sewage system may be under the parking area. See Condition A-1d.

- Health Department approval of the design for the new sewage system must be obtained prior to final site plan approval. See Condition A-1e.
- The Health Department estimates that, if all requirements are met, the building could generate a total peak flow of up to 300 gallons per day, broken down in the preliminary design proposal as up to four employees and a two bedroom residence.
- No oils or floor drainage shall be directed into the on-site septic system. See Condition H-4.
- The proposed new well site requires that a well site evaluation be approved. Small Public Water Supply conditional approval and proper decommissioning of the existing well shall be completed prior to final site plan approval. See Condition A-1f.

IMPACT FEES:

Finding 21 - Impact Fees: The site is located in the Rural 1 Traffic Impact Fee area, and will impose new service demands on the transportation system. This development is subject to impact fees authorized by CCC chapters 40.610 & 40.620 to defray the cost of serving this new demand, payable at the time of building permit issuance. The TIF rate in the Rural 1 TIF Sub-area assumes 33.8 trips per 1,000 sf, and the adjusted trip rate for the residential apartment (ITE 220) is 6.63 trips per day. The total TIF is calculated as follows:

F = Fee rate

T = adjusted daily trips

A = 15% reduction adjustment for future tax revenues

BEF = Business Enhancement Factor

PB = Pass-by factor

$TIF = F \times T \times A \times BEF \times PB$

$TIF = \$338 \times (33.8 \times 2.904) \times 0.85 \times 0.7 \times 1$

$TIF = \$19,740$ (2,904 sq ft auto shop)

$TIF = \$338 \times (6.63 \times 1) \times 0.85 \times 1 \times 1$

$TIF = \$1,904.80$ (residence)

The site is located in the Camas School District and is therefore subject to a school impact fee (SIF) of \$5,785.41 per residence SIF). Impact fees are payable prior to issuance of a building permit and shall be fixed for a period of three years from the date of this approval, after which any building permits applied for shall be subject to the then-applicable impact fee schedule. See Condition E-1.

SEPA DETERMINATION

Based on the application materials and agency comments, staff determined that there were no probable significant adverse environmental impacts associated with this proposal that could not be avoided or mitigated through the conditions of approval listed below. Accordingly, the County, as the lead agency, determined that an environmental impact statement was not needed. The County issued and published its Determination of Nonsignificance for this project on June 4, 2009 (Ex. 9). No timely comments and no appeals were received by the comment and appeal deadline of June 18, 2009; therefore, the SEPA determination is final.

V. Decision and Conditions:

Based on the foregoing findings and except as conditioned below, this conditional use permit and site plan are approved in general conformance with the developer's proposal, the preliminary site plan and related plans (Exs. 5 & 6) as subsequently revised (Ex. 12). The dwelling is also approved as proposed. These approvals are granted subject to the requirements that the developer, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

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| A | Final Construction/Site Plan Review Review & Approval Authority: Development Engineering |
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Prior to construction, a Final Construction/Site Plan shall be submitted for review and approved, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 Final Site Plan** – The developer shall submit and obtain county approval of a final site plan in conformance with CCC 40.520.040 and the following additional requirements:
- a. The site plan shall be amended as necessary to provide an accessible route of travel to the main building entrance from the ADA accessible parking space. See Finding 5.
 - b. The site plan shall be amended as necessary to rectify the conflict between the accessible parking space and access to the proposed vehicle entrance into the west building addition. See Finding 5.
 - c. The final site plan shall provide a storage area for solid waste and recyclables. The final plans shall provide details of the solid waste enclosure adequate to verify compliance with the size and design standards in CCC chapter 40.360. See Finding 6.
 - d. No portion of the on-site septic system shall be installed under, or overlain by, the parking area. See Finding 20.
 - e. Prior to final site plan approval, the developer shall obtain approval of the design for the new on-site septic system from the Clark County Health Department. See Finding 20.
 - f. The final site plan shall show the locations of the new water well and the decommissioned well. Small Public Water Supply conditional approval and proper decommissioning of the existing well shall be completed prior to final site plan approval. See Finding 20.
 - g. The developer shall submit the proposed stormwater plan to the Health Department for review. See Finding 20.

A-2 Final Construction Plan - The developer shall submit and obtain County approval of a final construction plan that, among other things, includes the following:

a.A rchaeology - A note shall be placed on the face of the final construction plans as follows:

"If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

A-3 Final Transportation Plan/On-Site - The developer shall submit and obtain County approval of a final transportation design in conformance with CCC chapter 40.350 and the following additional requirements:

a.T he intersection of site's access with the public road shall be paved f rom the existing edge of pavement to ether 20 feet or to the property line, whichever is greater. See Finding 8.

b. Sight distance at the access point of the site when looking onto the public road shall be improved in accordance with the recommendation stated in the developer's Sight Distance Certification. See Finding 9.

A-4 Final Stormwater Plan - The developer shall submit and obtain County approval of a final stormwater plan designed in conformance with CCC chapter 40.380 and the following additional requirements:

a.T he developer shall perform a stowmwwater impact and system capacity analysis for a distance of ¼ mile downstream in accordance with CCC 40.380.040(B)(2). See Finding 12.

b. The developer shall obtain any required permits from other WSDOT prior to performing work in its jurisdiction. See Finding 12.

A-5 Erosion Control Plan - The developer shall submit and obtain County approval of a final erosion control plan designed in accordance w ith CCC chapter 40.380.

A-6 Fire Marshal Requirements: The developer shall implement or otherwise comply with the following conditions recommended by the Fire Marshal:

a.Fire f low in the amount of 1,750 gallons per minute supplied for 2 hours duration is required for this application. Fire flow is based upon a 3,444 sf type V-B constructed building. Prior to obtaining building permits, the developer shall submit proof from the water purveyor indicating that the required fire flow is available at the site. However, this rural site isnot served by public water. Therefore, in lieu of fire flow and hydrant, the applicant may install a monitored fire sprinkler system with a tank and pump system so long as this alternative is reviewed and approved by the Fire Marshal. See Finding 16.

- b. Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. The developer shall provide fire hydrants so that the maximum spacing between hydrants does not exceed 300 feet and no portion of the building exterior is farther than 300 feet from a fire hydrant as measured along approved fire apparatus access roads. In lieu of fire flow and a hydrant, a monitored fire sprinkler system with a tank and pump system would be acceptable alternative, as approved by the Fire Marshal. See Finding 17. The applicant shall work with the County Planning Department to satisfy the Fire Marshal's requirements.
- c. If fire hydrants are installed, they shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local district fire chief shall review and approve the exact locations of fire hydrants. See Finding 17.

A-7 Other Documents Required – The developer shall submit a Developer's Covenant with the Final Construction/Site Plan that specifies the following Responsibility for Stormwater Facility Maintenance:

For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. An access easement to the private facilities for the purpose of inspection shall be granted to the county. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060.

A-8 Excavation and Grading - Excavation / grading shall be performed in compliance with CCC chapter 14.07.

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| B | Prior to Construction of Development Review & Approval Authority: Development Inspection |
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Prior to construction, the following conditions shall be met:

- B-1 Demolition** – Prior to demolition or removal of any existing structures the developer shall obtain a demolition permit from the Clark County Building Department. See Finding 16.
- B-2 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.
- B-3 Erosion Control** - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during

construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

- B-4 Erosion Control** - Erosion control facilities shall not be removed without County approval.
- B-5 Fire Marshal Requirements** - Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to the commencement of combustible building construction unless the developer opts to install a monitored sprinkler system with a tank and pump. See Finding 16.

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| E | Building Permits Review & Approval Authority: Customer Service |
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Prior to issuance of a building permit, the following conditions shall be met:

- E-1 Impact Fees** – Prior to issuance of a building permit, the developer shall pay the following Traffic (TIF) and School (SIC) Impact fees to the Clark County Building Department:
- \$21,644.80 – Traffic Impact Fee (Rural 1 TIF District)
 - \$5,785.41 – School Impact Fee (Camas School District)
- If the building permit application is submitted more than three years following the date of this preliminary site plan approval, the impact fees shall be recalculated according to the then-current rate. See Finding 21.

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| F | Occupancy Permits Review & Approval Authority: Building |
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Prior to issuance of an occupancy permit, the following conditions shall be met:

- F-1 Landscaping** – Prior to the issuance of an approval of occupancy, the developer shall submit a copy of the approved final landscape plan with a letter signed and stamped by a Washington licensed landscape architect certifying that the landscape and irrigation have been installed in accordance with the attached approved plans and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site. See Finding 4.
- F-2 Water & Sewer** – The developer shall provide documentation from the Clark County Health Department showing that the on-site well and septic system have been inspected and approved. See Finding 20.

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| G | Development Review Timelines & Advisory Information |
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- G-1 Expiration of Site Plan and CUP Approval** - Within 5 years of preliminary site plan approval, the developer shall submit a Fully Complete building permit application, after which the preliminary site plan approval shall automatically expire.
- G-2 DOE Stormwater Permit** - A stormwater permit from the Department of Ecology (DOE) is required if both of the following conditions occur:

- a. The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; AND
- b. There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

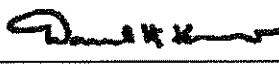
The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the 1-acre threshold. This applies even if the developer is responsible for only a small portion (less than one acre) of the larger project planned over time. The developer shall Contact the DOE for further information.

- G-3 Building Elevation Approvals** – Approval of building elevations submitted for preliminary plan review does not ensure compliance with other requirements, e.g., building setbacks, under other construction codes. Compliance with other construction codes is the responsibility of the developer at the time of building permit issuance.

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| H | Post Development Requirements Review & Approval Authority: As specified below |
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- H-1 Outdoor Storage & Repair** – Outdoor storage or repair of vehicles on this site is strictly prohibited. See Finding 1.
- H-2 Rural Services** – As an on-going condition of approval, the auto repair business on this site shall offer vehicle services commonly applicable and available to the surrounding rural community. These services shall constitute the major volume of business and any high performance vehicle services offered shall be secondary. See Finding 2.
- H-3 CARA** – As an on-going condition of approval, the auto repair business on this site shall incorporate the best management practices and other recommendations in the Level 1 Site Evaluation Report prepared by Environmental Technology Consultants (Ex. 6, tab 9). See Finding 13.
- H-4 On site Sewage System** – No oils or floor drainage shall be directed into the on-site sewage system. See Finding 20.

Date of Decision: August 11, 2009.

By: 
 Daniel Kearns,
 Land Use Hearings Examiner

NOTE: Only the Decision and Conditions of approval, if any, are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the

intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

Notice of Appeal Rights

An appeal of any aspect of the Hearings Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing or submitted written testimony prior to or at the public hearing on this matter.

Any appeal of the final land use decisions shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668 within 14 calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the Land Use Hearings Examiner's final land use decision shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 18.600.100A) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error;
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal must also explain why such evidence should be considered, based on the criteria in subsection 18.600.100(D)(2); and
5. A check in the amount of \$286 (made payable to the Clark County Board of County Commissioners) must accompany an appeal to the Board.

1852



HEARING EXAMINER EXHIBITS

APPLICATION: ENGLISH CONDITIONAL USE PERMIT

CASE NUMBERS: CUP2009-00005; PSR2009-00021; SEP2009-00041;

VAR2009-00008; CRA2009-00002

Hearing Date: July 23, 2009

| EXHIBIT NO. | DATE | SUBMITTED BY | DESCRIPTION |
|-------------|---------|--|---|
| 1 | | CC Development Services | Aerial Map |
| 2 | | CC Development Services | Vicinity Map |
| 3 | | CC Development Services | Zoning Map |
| 4 | | CC Development Services | Comprehensive Plan Map |
| 5 | 5/11/09 | Applicant, Minister Glaeser Surveying Inc. | Preliminary Boundary Survey Preliminary Architectural Drawings Preliminary Landscape Plan Preliminary Site Plan |
| 6 | 5/11/09 | Applicant, Minister Glaeser Surveying Inc. | 1. Table of Contents 2. Application Form 3. Preapplication Conference Report 4. Developer's GIS Packet 5. Project Narrative 6. Variance Narrative 7. Sales History 8. SEPA Checklist 9. CARA Level I Site Evaluation Report 10. Water Utility Review 11. Health Department Review 12. Archaeological Predetermination 13. Traffic Profile 14. Sight Distance Certification 15. Stormwater Letters 16. Impervious Surface Exhibit 17. Preliminary Boundary Survey 18. Preliminary Architectural Drawings 19. Preliminary Landscape Plan 20. Preliminary Site Plan |
| 7 | 5/21/09 | CC Development Services | Fully Complete Determination |

| EXHIBIT NO. | DATE | SUBMITTED BY | DESCRIPTION |
|-------------|---------|--|---|
| 8 | 6/4/09 | CC Development Services | Affidavit of Mailing Public Notice |
| 9 | 6/4/09 | CC Development Services | Notice of Type III Development Review Application, Optional SEPA Determination of Non-Significance & Public Hearing |
| 10 | 6/17/09 | Alan Boguslawski, Planner | Early Issues Review |
| 11 | 6/18/09 | Steve Morasch | Letter Regarding Landscaping Requirements |
| 12 | 6/23/09 | Applicant, Minister Glaeser Surveying Inc. | Revised Site Plan, Landscape Plan, & Narrative |
| 13 | 7/7/09 | CC Health Department | REVISED Highly Conditional Health Dept Evaluation |
| 14 | 7/1/09 | CC Development Services | Legal Notice to Paper – Published 7/8/09 |
| 15 | 7/8/09 | CC Development Services | Affidavit of Posting |
| 16 | 7/8/09 | CC Development Services | Staff Report written by Alan Boguslawski |
| 17 | 7/8/09 | Applicant: PLS Engineering | Preliminary Drainage Reports |
| 18 | 7/14/09 | Jack Shynne | Public Comments |
| 19 | 7/17/09 | Applicant: PLS Engineering | Affidavit of Posting Land Use Sign |
| 20 | 7/23/09 | CC Development Engineering | Power Point Pictures |

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810